



#5 7/1/99  
T. Gray

MSU 4.1-406  
6/21/99

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Alberto L. Mendoza

Serial No.: 09/082,112      Group Art Unit: 1645

Filed : 1998 May 20

For : METHOD AND VACCINE FOR TREATMENT OF  
PYTHIOSIS INSIDIOSI IN HUMANS AND  
LOWER ANIMALS

Examiner : S. Turner

Commissioner of Patents and Trademarks

Washington, D. C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

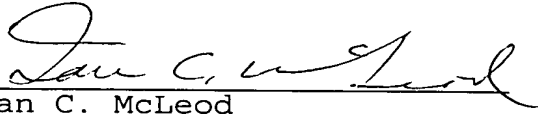
Sir:

In response to the Office Action dated June 16, 1999, the Applicant traverses the restriction requirement. The restriction requirement is inconsistent with the restriction requirement (copy enclosed) in the parent application Serial No. 08/895,940, filed July 17, 1997, of which the present application is a division containing only Claims 16 to 25. Claims 1 to 15 are not even pending in this application, pursuant to an Amendment Under 37 CFR 1.111 (copy enclosed) filed with the present application.

In order to technically comply with the request, Applicant elects claims 18 to 25 in Group I, with traverse. In no sense should this be taken as

agreement that Claims 16 to 17 in Group II, which also relate to a method of treatment, should not be grouped with Claims 18 to 25. Reconsideration is requested.

Respectfully,

  
Ian C. McLeod  
Registration No. 20,931

2190 Commons Parkway  
Okemos, Michigan 48864

(517) 347-4100  
Fax: (517) 347-4103

Enclosure: Election/Restriction from S.N. 08/895,940  
Amendment Under 37 CFR 1.111 filed 5/20/98

Serial Number: 08/895,940

Page 2

Art Unit: technology center

DETAILED ACTION



1. *Election/Restriction*

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

Group I Claims 1-8, drawn to an injectable vaccine of *Pythium insidiosum*, classified in Class 424, subclass 274.1.

Group II Claims 9-15, drawn to a method of preparing an injectable vaccine, classified in Class 530, subclass 412.

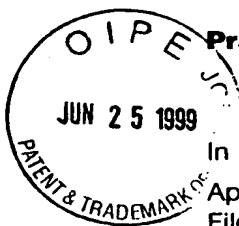
Group III Claims 16-25, drawn to a method of treatment of *Pythiosis* in mammal using proteins and admixture of intracellular and extracellular proteins of *Pythium insidiosum*, classified in Class 514, subclass 2.

The inventions are patentably distinct, each from the other, because:

Inventions II and III are materially different methods requiring different reagents which are capable of separate manufacture, use or sale.

Inventions I and III are related as product and processes of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the product of Group I have uses in materially different processes such as in detection.

9/11/95



Practitioner's Docket No. MSU 4.1-406

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: **Alberto L. Mendoza**

Application No.: **0 9 / 082,112** Group No.: **1645**

Filed: **1998 May 20**

Examiner: **S. Turner**

For: **METHOD AND VACCINE FOR TREATMENT OF PYTHIOSIS INSIDIOSI  
IN HUMANS AND LOWER ANIMALS**

**Assistant Commissioner for Patents  
Washington, D.C. 20231**

**AMENDMENT TRANSMITTAL**

1. Transmitted herewith is an amendment for this application.

**STATUS**

**RECEIVED**

2. Applicant is

**JUN 29 1999**

☒ a small entity. A statement:

☐ is attached.

☒ was already filed.

☐ other than a small entity.

**TECH CENTER 1600/2900**

**CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.8(a))**

I hereby certify that this correspondence is, on the date shown below, being:

**MAILING**

**FACSIMILE**

☒ deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

☐ transmitted by facsimile to the Patent and Trademark Office.

Date: 6/22/99

Tammi L. Taylor  
Signature

Tammi L. Taylor

(type or print name of person certifying)

(Amendment Transmittal [9-19]—page 1 of 4)

### EXTENSION OF TERM

NOTE: "Extension of Time in Patent Cases (Supplement Amendments) — If a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

*If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1985 (1061 O.G. 34-35).*

NOTE: See 37 C.F.R. § 1.645 for extensions of time in interference proceedings, and 37 C.F.R. § 1.550(c) for extensions of time in reexamination proceedings.

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

(complete (a) or (b), as applicable)

- (a) ☐ Applicant petitions for an extension of time under 37 C.F.R. § 1.136 (fees: 37 C.F.R. § 1.17(a)(1)-(4) for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 380.00	\$ 190.00
<input type="checkbox"/> three months	\$ 870.00	\$ 435.00
<input type="checkbox"/> four months	\$ 1,360.00	\$ 680.00

Fee: \$ \_\_\_\_\_

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for \_\_\_\_\_ months has already been secured. The fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

OR

- (b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

### FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. § 1.16(b)-(d)) has been calculated as shown below:

(Col. 1)		(Col. 2)		(Col. 3)		SMALL ENTITY		OTHER THAN A SMALL ENTITY	
CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO PREVIOUSLY PAID FOR		PRESENT EXTRA		ADDIT. FEE		ADDIT. FEE	
						OR			
TOTAL	• 10	MINUS	•• 20	=	-0-	x\$9=	\$ -0-	x\$18=	\$
INDEP.	• 2	MINUS	••• 3	=	-0-	x\$39=	\$ -0-	x\$78=	\$
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEP. CLAIM						+\$130= \$		+\$260= \$	
						TOTAL ADDIT. FEE		OR TOTAL ADDIT. FEE \$	
						\$ -0-			

- \* If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.
  - \*\* If the "Highest No. Previously Paid for" IN THIS SPACE is less than 20, enter "20".
  - \*\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".
- The "Highest No. Previously Paid For" (Total or indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.
- WARNING:** "After final rejection or action (§ 1.113) amendments may be made cancelling claims or complying with any requirement of form which has been made." 37 C.F.R. § 1.116(a) (emphasis added).

(complete (c) or (d), as applicable)

- (c) ☒ No additional fee for claims is required.

**OR**

- (d) ☐ Total additional fee for claims required \$\_\_\_\_\_.

### FEE PAYMENT

5. ☐ Attached is a check in the sum of \$\_\_\_\_\_.
- ☐ Charge Account No. \_\_\_\_\_ the sum  
of \$\_\_\_\_\_.

A duplicate of this transmittal is attached.

### FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, (1065 O.G. 31-33).

6. ☒ If any additional extension and/or fee is required, charge Account No. 13-0610

### AND/OR

- ☒ If any additional fee for claims is required, charge Account No. 13-0610

Reg. No.: 20,931

Tel. No.: (517 ) 347-4100

Customer No.: 21036

  
\_\_\_\_\_  
SIGNATURE OF PRACTITIONER

Ian C. McLeod  
(type or print name of practitioner)

2190 Commons Parkway  
P.O. Address

Okemos, Michigan 48864